

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DONNA COPELAND, on behalf of herself and  
all others similarly situated,

Plaintiff,

v.

ALBION LABORATORIES, Inc.; SEEKING  
HEALTH, LLC; and DESIGNS FOR  
HEALTH, INC.,

Defendants.

NO. 2:15-cv-00585-MJP

**ANSWER AND DEFENSES OF  
DEFENDANT SEEKING HEALTH,  
LLC**

Defendant Seeking Health, LLC answers the allegations in the complaint as follows:

**I. NATURE OF CASE**

1. Seeking Health lacks knowledge or information sufficient to answer the allegations regarding the overall size of the dietary-supplement industry, the subjective states and motivations of “consumers” generally, or the practices of “some companies” but denies that Seeking Health has ever engaged in the practices described. The allegations in paragraph 1 are otherwise denied.

2. Seeking Health admits that it has sold products that contained TRAACS® Magnesium Bisglycinate Chelate Buffered, which Seeking Health understands to be chelated and which Seeking Health has been informed also contained some amount of magnesium oxide as a buffering agent. Seeking Health lacks knowledge or information sufficient to answer the

1 allegations regarding the specific contents of the TRAACS® Magnesium Bisglycinate Chelate  
2 Buffered or of the products sold by other Defendants. The allegations in paragraph 2 are  
3 otherwise denied.

4 3. Seeking Health admits that the labels on certain of its products have accurately  
5 identified TRAACS® Magnesium Bisglycinate Chelate Buffered as the source of magnesium  
6 in the “Supplement Facts” panel and that the magnesium-oxide buffering agent is not  
7 separately identified on such labels. Seeking Health lacks knowledge or information sufficient  
8 to answer the allegations regarding Albion’s practices. The allegations in paragraph 3 are  
9 otherwise denied.

10 4. Seeking Health lacks knowledge or information sufficient to answer allegations  
11 regarding the knowledge or intent of tens of thousands of consumers generally. The allegations  
12 in paragraph 4 are otherwise denied.

## 13 II. PARTIES

14 5. Seeking Health lacks knowledge or information sufficient to answer the  
15 allegations in paragraph 5.

16 6. Seeking Health lacks knowledge or information sufficient to answer the  
17 allegations in paragraph 6.

18 7. Seeking Health lacks knowledge or information sufficient to answer the  
19 allegations in paragraph 7.

20 8. Seeking Health lacks knowledge or information sufficient to answer the  
21 allegations in paragraph 8.

22 9. Seeking Health lacks knowledge or information sufficient to answer the  
23 allegations in paragraph 9.

24 10. Seeking Health lacks knowledge or information sufficient to answer the  
25 allegations in paragraph 10.

26 11. Seeking Health lacks knowledge or information sufficient to answer allegations  
27 regarding whether unidentified consumers or Plaintiff would have purchased specific products,

1 or how much they would have paid for such products, if the products had been labeled  
2 differently. The allegations in paragraph 11 are otherwise denied.

3 12. Seeking Health lacks knowledge or information sufficient to answer the  
4 allegations in paragraph 12.

5 13. Seeking Health admits that it is a limited liability corporation organized under  
6 the laws of the State of Washington whose headquarters are located in Bellingham, Washington  
7 and is therefore a citizen of Washington under 28 U.S.C. § 1332(c). Seeking Health admits that  
8 it has marketed and sold nutrition supplements worldwide, including products with ingredients  
9 manufactured by Albion, but lacks knowledge or information sufficient to answer allegations  
10 regarding the manufacture or contents of Albion's products.

11 14. Seeking Health admits that the named Plaintiff and Defendants are citizens of  
12 different states. Seeking Health lacks knowledge or information sufficient to answer the  
13 allegations regarding the number of members in the proposed class. The allegations in  
14 paragraph 14 are otherwise denied.

### 15 **III. JURISDICTION AND VENUE**

16 15. Seeking Health lacks knowledge or information sufficient to answer the  
17 allegations in paragraph 15 but denies the allegations regarding the amount in controversy and  
18 the size of the proposed class insofar as they pertain to claims against Seeking Health.

19 16. Seeking Health admits that it has sold products in Washington and done  
20 business in Washington. The allegations in paragraph 16 are otherwise denied.

### 21 **IV. GENERAL ALLEGATIONS**

22 17. Seeking Health lacks knowledge or information sufficient to answer the  
23 allegations regarding the overall size of the dietary-supplement industry, the subjective state of  
24 "consumers" generally, or what drives consumer decision making. The allegations in  
25 paragraph 17 are otherwise denied.

26 18. Seeking Health admits that some literature and studies indicate that magnesium  
27 deficiency may be common and further admits that magnesium can play an important role in

1 the health of some individuals for the functions and indications alleged. Seeking Health lacks  
2 knowledge or information sufficient to answer the allegations regarding the relative strength of  
3 the magnesium market or the subjective states motivating “consumers” generally. The  
4 allegations in paragraph 18 are otherwise denied.

5 19. Seeking Health admits that there are numerous types of magnesium supplements  
6 and that, generally speaking, bioavailability correlates with absorption. The allegations in  
7 paragraph 19 are otherwise denied.

8 20. Seeking Health admits that magnesium glycinate is one of the more bioavailable  
9 forms of magnesium for many individuals. Seeking Health denies the allegations that purport  
10 to summarize or draw quotes or conclusions out of context from studies or literature, which  
11 speak for themselves, vary widely in their rigor and results, and do not address the TRAACS®  
12 Magnesium Bisglycinate Buffered ingredient in products sold by Seeking Health. The  
13 allegations in paragraph 20 are otherwise denied.

14 21. Seeking Health denies the allegations that purport to summarize or draw quotes  
15 or conclusions out of context from studies or literature, which speak for themselves, vary  
16 widely in their rigor and results, and do not address the TRAACS® Magnesium Bisglycinate  
17 Buffered ingredient in products sold by Seeking Health.

18 22. Seeking Health denies the allegations that purport to summarize or draw quotes  
19 or conclusions out of context from studies or literature, which speak for themselves, vary  
20 widely in their rigor and results, and do not address the TRAACS® Magnesium Bisglycinate  
21 Buffered ingredient in products sold by Seeking Health.

22 23. Seeking Health lacks knowledge or information sufficient to answer the  
23 allegations in paragraph 23.

24 24. Seeking Health lacks knowledge or information sufficient to answer the  
25 allegations regarding the subjective beliefs of “consumers” generally or comments certain  
26 consumers may have made in various forums. The allegations in paragraph 24 are otherwise  
27 denied.

1           25.     Seeking Health denies the allegations that purport to summarize or draw quotes  
2 or conclusions out of context from the quoted article, which speaks for itself. Seeking Health  
3 lacks knowledge or information sufficient to answer the allegations regarding the prices  
4 charged by other retailers for their products or the contents of those products. The allegations  
5 in paragraph 25 are otherwise denied.

6           26.     Seeking Health admits that TRAACS® Magnesium Bisglycinate Chelate  
7 Buffered is a chelated form of magnesium and that chelation involves combining magnesium  
8 with other substances. Seeking Health lacks knowledge or information sufficient to answer the  
9 remaining allegations in paragraph 26.

10          27.     Seeking Health can neither admit nor deny that the labels on its Optimal  
11 Magnesium product are as depicted in paragraph 27; the Seeking Health label purportedly  
12 depicted in paragraph 27 is illegible. Seeking Health lacks knowledge or information sufficient  
13 to answer the allegations in paragraph 27 regarding Albion's practices. The allegations in  
14 paragraph 27 are otherwise denied.

15          28.     Seeking Health lacks knowledge or information sufficient to answer the  
16 allegations regarding the subjective beliefs of "consumers" generally but denies that its labeling  
17 was deceptive. The allegations in paragraph 28 are otherwise denied.

18          29.     Seeking Health lacks knowledge or information sufficient to answer the  
19 allegations regarding Plaintiff's subjective beliefs or those of the putative "Class" generally.  
20 The allegations in paragraph 29 are otherwise denied.

21          30.     The allegations in paragraph 30 are denied insofar as they pertain to products  
22 sold by Seeking Health.

23          31.     The allegations in paragraph 31 are denied insofar as they pertain to products  
24 sold by Seeking Health.

25          32.     The allegations in paragraph 32 are denied insofar as they pertain to Seeking  
26 Health.

1           33.     Seeking Health admits that its magnesium supplements do not fall within the  
2 exemptions set forth in 21 CFR § 101.36(h)(3) but otherwise denies the allegations in  
3 paragraph 33 purporting to summarize, paraphrase, or capture the practical significance or legal  
4 effect of the federal regulations cited. Seeking Health lacks knowledge or information  
5 sufficient to answer the factual allegations in paragraph 33 insofar as they pertain to other  
6 Defendants. The allegations in paragraph 33 are otherwise denied.

7           34.     Seeking Health denies the allegations in paragraph 34 that purport to summarize,  
8 paraphrase, or capture the practical significance or legal effect of the federal regulations cited.  
9 Seeking Health lacks knowledge or information sufficient to answer the factual allegations in  
10 paragraph 34 insofar as they pertain to other Defendants. The allegations in paragraph 34 are  
11 otherwise denied.

12           35.     Seeking Health denies the allegations in paragraph 35 that purport to summarize,  
13 paraphrase, or capture the practical significance or legal effect of the federal regulations cited.  
14 Seeking Health lacks knowledge or information sufficient to answer the factual allegations in  
15 paragraph 35 insofar as they pertain to other Defendants. The allegations in paragraph 35 are  
16 otherwise denied.

17           36.     Seeking Health denies the allegations in paragraph 36 that purport to summarize,  
18 paraphrase, or capture the practical significance or legal effect of the federal regulations and  
19 statutes cited. Seeking Health lacks knowledge or information sufficient to answer the factual  
20 allegations in paragraph 36 insofar as they pertain to other Defendants. The allegations in  
21 paragraph 36 are otherwise denied.

22           37.     Seeking Health denies the allegations in paragraph 37 insofar as they purport to  
23 summarize, paraphrase, or capture the practical significance or legal effect of the federal  
24 regulations cited. Seeking Health lacks knowledge or information sufficient to answer the  
25 factual allegations in paragraph 37 insofar as they pertain to other Defendants. The allegations  
26 in paragraph 37 are otherwise denied.

1           38.     Seeking Health lacks knowledge or information sufficient to answer the  
2     allegations in paragraph 38.

3           39.     Seeking Health lacks knowledge or information sufficient to answer the  
4     allegations in paragraph 39.

5           40.     Seeking Health lacks knowledge or information sufficient to answer the  
6     allegations in paragraph 40.

7           41.     Seeking Health lacks knowledge or information sufficient to answer the  
8     allegations in paragraph 41.

9           42.     Seeking Health lacks knowledge or information sufficient to answer the  
10    allegations in paragraph 42.

11          43.     Seeking Health lacks knowledge or information sufficient to answer the  
12    allegations in paragraph 43.

13          44.     Seeking Health lacks knowledge or information sufficient to answer the  
14    allegations in paragraph 44 regarding Plaintiff's subjective beliefs or those of the putative  
15    "Class" generally. The allegations in paragraph 44 are otherwise denied.

16          45.     Seeking Health denies the allegations in paragraph 45 insofar as they purport to  
17    capture the practical significance or legal effect of FDA regulations insofar as they may pertain  
18    to Seeking Health. Seeking Health lacks knowledge or information sufficient to answer the  
19    allegations in paragraph 45 insofar as they pertain to other Defendants. The allegations in  
20    paragraph 45 are otherwise denied.

21          46.     The allegations in paragraph 46 are denied insofar as they pertain to Seeking  
22    Health.

23          47.     Seeking Health lacks knowledge or information sufficient to answer the  
24    allegations in paragraph 47.

25          48.     Seeking Health lacks knowledge or information sufficient to answer the  
26    allegations in paragraph 48 but denies that it received the alleged notice from Albion.

1           49.     Seeking Health lacks knowledge or information sufficient to answer the  
2 allegations in paragraph 49.

3                           **V.     CLASS ACTION ALLEGATIONS**

4           50.     Insofar as the allegations in paragraph 50 concern the nature of Plaintiff's  
5 complaint, they do not require a responsive pleading. Seeking Health nonetheless denies that  
6 the requirements of Rule 23 are satisfied with regard to any claims against Seeking Health.

7           51.     Seeking Health denies that the requirements of Rule 23 identified in paragraph  
8 51 are satisfied with regard to any claims against Seeking Health. Seeking Health otherwise  
9 denies or lacks information sufficient to answer the allegations in paragraph 51.

10                           **VI.    FIRST CAUSE OF ACTION**

11          52.     The allegations in paragraph 52 do not require a responsive pleading.

12          53.     Seeking Health denies the allegations in paragraph 53 insofar as the purport to  
13 be a complete or accurate summary of the requirements of the Consumer Protection Act.

14          54.     Admitted.

15          55.     Admitted.

16          56.     Denied.

17          57.     Denied.

18          58.     Denied.

19          59.     Denied.

20          60.     Denied.

21          61.     Denied.

22                           **VII.   SECOND CAUSE OF ACTION**

23          62.     The allegations in paragraph 62 do not require a responsive pleading.

24          63.     Admitted.

25          64.     Admitted.

26          65.     Denied.

27          66.     Denied.

1           67.     Denied.

2           68.     Denied.

3           69.     Denied.

4           70.     Denied.

5           71.     Denied.

6           72.     Denied.

7           73.     Denied.

8           74.     Denied.

9           75.     Denied.

10                           **VIII.   THIRD CAUSE OF ACTION**

11           76.     The allegations in paragraph 76 do not require a responsive pleading.

12           77.     The allegations in this paragraph concern Defendant Designs for Health and  
13 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
14 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
15 allegations.

16           78.     The allegations in this paragraph concern Defendant Designs for Health and  
17 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
18 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
19 allegations.

20           79.     The allegations in this paragraph concern Defendant Designs for Health and  
21 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
22 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
23 allegations.

24           80.     The allegations in this paragraph concern Defendant Designs for Health and  
25 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
26 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
27 allegations.

1           81.     The allegations in this paragraph concern Defendant Designs for Health and  
2 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
3 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
4 allegations.

5           82.     The allegations in this paragraph concern Defendant Designs for Health and  
6 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
7 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
8 allegations.

9           83.     The allegations in this paragraph concern Defendant Designs for Health and  
10 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
11 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
12 allegations.

13          84.     The allegations in this paragraph concern Defendant Designs for Health and  
14 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
15 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
16 allegations.

17          85.     The allegations in this paragraph concern Defendant Designs for Health and  
18 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
19 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
20 allegations.

21          86.     The allegations in this paragraph concern Defendant Designs for Health and  
22 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
23 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
24 allegations.

25          87.     The allegations in this paragraph concern Defendant Designs for Health and  
26 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
27

1 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
2 allegations.

3 88. The allegations in this paragraph concern Defendant Designs for Health and  
4 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
5 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
6 allegations.

7 **IX. FOURTH CAUSE OF ACTION**

8 89. The allegations in paragraph 89 do not require a responsive pleading.

9 90. The allegations in this paragraph concern Defendant Designs for Health and  
10 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
11 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
12 allegations.

13 91. The allegations in this paragraph concern Defendant Designs for Health and  
14 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
15 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
16 allegations.

17 92. The allegations in this paragraph concern Defendant Designs for Health and  
18 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
19 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
20 allegations.

21 93. The allegations in this paragraph concern Defendant Designs for Health and  
22 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
23 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
24 allegations.

25 94. The allegations in this paragraph concern Defendant Designs for Health and  
26 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
27

1 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
2 allegations.

3 95. The allegations in this paragraph concern Defendant Designs for Health and  
4 therefore do not require a responsive pleading from Seeking Health. To the extent a responsive  
5 pleading is required, Seeking Health lacks knowledge or information sufficient to answer these  
6 allegations.

7 **X. FIFTH CAUSE OF ACTION**

8 96. The allegations in paragraph 96 do not require a responsive pleading.

9 97. The allegations in this paragraph concern Defendant Albion and therefore do not  
10 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
11 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

12 98. The allegations in this paragraph concern Defendant Albion and therefore do not  
13 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
14 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

15 99. The allegations in this paragraph concern Defendant Albion and therefore do not  
16 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
17 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

18 100. The allegations in this paragraph concern Defendant Albion and therefore do not  
19 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
20 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

21 101. The allegations in this paragraph concern Defendant Albion and therefore do not  
22 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
23 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

24 102. The allegations in this paragraph concern Defendant Albion and therefore do not  
25 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
26 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

1           103. The allegations in this paragraph concern Defendant Albion and therefore do not  
2 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
3 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

4           104. The allegations in this paragraph concern Defendant Albion and therefore do not  
5 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
6 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

7           105. The allegations in this paragraph concern Defendant Albion and therefore do not  
8 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
9 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

10           106. The allegations in this paragraph concern Defendant Albion and therefore do not  
11 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
12 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

13           107. The allegations in this paragraph concern Defendant Albion and therefore do not  
14 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
15 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

16           108. The allegations in this paragraph concern Defendant Albion and therefore do not  
17 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
18 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

19           109. The allegations in this paragraph concern Defendant Albion and therefore do not  
20 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
21 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

22           110. The allegations in this paragraph concern Defendant Albion and therefore do not  
23 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
24 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

25           111. The allegations in paragraph 111 do not require a responsive pleading.

26                           **XI. SIXTH CAUSE OF ACTION**

27           112. The allegations in paragraph 112 do not require a responsive pleading.

1           113. The allegations in this paragraph concern Defendant Albion and therefore do not  
2 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
3 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

4           114. The allegations in this paragraph concern Defendant Albion and therefore do not  
5 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
6 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

7           115. The allegations in this paragraph concern Defendant Albion and therefore do not  
8 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
9 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

10          116. The allegations in this paragraph concern Defendant Albion and therefore do not  
11 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
12 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

13          117. The allegations in this paragraph concern Defendant Albion and therefore do not  
14 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
15 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

16          118. The allegations in this paragraph concern Defendant Albion and therefore do not  
17 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
18 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

19          119. The allegations in this paragraph concern Defendant Albion and therefore do not  
20 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
21 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

22          120. The allegations in this paragraph concern Defendant Albion and therefore do not  
23 require a responsive pleading from Seeking Health. To the extent a responsive pleading is  
24 required, Seeking Health lacks knowledge or information sufficient to answer these allegations.

25          121. The allegations in paragraph 121 do not require a responsive pleading.

26                                   **XII. SEVENTH CAUSE OF ACTION**

27          122. The allegations in paragraph 122 do not require a responsive pleading.

1           123.    The allegations in paragraph 123 are denied insofar as they pertain to Seeking  
2 Health.

3           124.    The allegations in paragraph 124 are denied insofar as they pertain to Seeking  
4 Health.

5                                   **XIII.   EIGHTH CAUSE OF ACTION**

6           125.    The allegations in paragraph 125 do not require a responsive pleading.

7           126.    The allegations in paragraph 126 are denied insofar as they pertain to Seeking  
8 Health.

9           127.    The allegations in paragraph 127 are denied insofar as they pertain to Seeking  
10 Health.

11          128.    The allegations in paragraph 128 are denied insofar as they pertain to Seeking  
12 Health.

13          129.    The allegations in paragraph 129 are denied insofar as they pertain to Seeking  
14 Health.

15          130.    The allegations in paragraph 130 are denied insofar as they pertain to Seeking  
16 Health.

17                                   **XIV.   PRAYER FOR RELIEF**

18           The prayer for relief does not require a responsive pleading, but Seeking Health denies  
19 that Plaintiff is entitled to the relief requested.

20                                   **XV.   DEMAND FOR TRIAL BY JURY**

21           The jury demand does not require a responsive pleading, but Seeking Health denies that  
22 Plaintiff is entitled to a jury on all claims asserted.

23                                   **XVI.   DEFENSES**

24           Seeking Health asserts the following affirmative and other defenses based on the  
25 information it has to date, reserving the right to assert additional defenses as it learns additional  
26 facts through investigation and discovery.  
27

1. In part due to its references to “Defendants” generally and to the “Blended Products,” the complaint fails to allege facts sufficient to state a claim against Seeking Health upon which relief can be granted and fails to show that Plaintiff is entitled to relief.

2. The Court lacks subject-matter jurisdiction under 28 USC § 1332(d).

3. This district is not the proper venue.

4. The complaint fails to state with particularity the circumstances constituting fraud with respect to claims against Seeking Health, as required by Rule 9(b) of the Federal Rules of Civil Procedure.

5. The actions or transactions alleged in the complaint are exempted under RCW 19.86.170.

DATED: May 26, 2015.

**SAVITT BRUCE & WILLEY LLP**

By: /s/ David N. Bruce

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*Attorneys for Defendant Seeking Health, LLC*

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on May 26, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

Ashlee Hooten